

Overview of the year 2020

Pursuant to section 8 par. 2 Federal Passenger Agency Act¹ and section 9 AStG², the Agency for Passenger Rights (apf) is obliged to compile an annual report on its activities and results. The material content of the 2020 report is summarised below. The full report can be retrieved from the apf website free of charge.³

Legislation in Austria

Arbitration board and enforcement body for rail, bus, waterborne and air transport

The Passenger Right Agency Act (PFAG)⁴ came into force on 28 May 2015. With this new legislation, the Agency for Passenger Rights (apf) replaced Schienen-Control's previous rail transport arbitration board and assimilated the arbitration board that was already handling complaints relating to air passenger rights at the former Federal Ministry for Transport, Innovation and Technology. These boards were joined by the newly created arbitration boards for bus and waterborne transport.

The apf is a service provided by the Federal Ministry for Climate Action, Environment, Energy, Mobility, Innovation and Technology (BMK) and was established as a department of Schienen-Control.

EU-notified body for alternative dispute resolution

As of 9 January 2016, the apf became a notified alternative dispute resolution body (ADR body) of the European Union (EU) pursuant to the Alternative Dispute Resolution Act (AStG)⁵ (the AStG is the national implementation of the EU directive on alternative dispute resolution in consumer disputes (ADR Directive⁶)). This makes the apf one of the eight ADR bodies active in Austria. Consumers can recognise the apf's status as an ADR body from the logo with the federal coat of arms and the words *Staatlich anerkannte Verbraucherschlichtungsstelle* ("officially recognised consumer arbitration board"). In terms of structure, funding, legal framework and decision-making, the apf is independent of the companies involved in the arbitration procedures. Arbitration procedures are conducted by the arbitrator appointed by the BMK.

¹ Federal Passenger Agency Act, Federal Law Gazette (BGBl) I 2015/61 (current version).

² Alternative Dispute Resolution Act – AStG, BGBl I 2015/105 (current version).

³ www.passagier.at

⁴ Passenger Right Agency Act – PFAG, BGBl I 2015/61.

⁵ Pursuant to section 4 par. 1 in conjunction with section 25 AStG.

⁶ Directive 2013/11/EU, Official Journal of the EU L 2013/165, 63.

Agency for Passenger Rights

The apf is the statutory arbitration board and enforcement body for rail, bus, waterborne and air transport. As part of its arbitration activities, it is responsible for settling passenger complaints out of court and helping passengers obtain justice in disputes with companies. In its function as an enforcement body, the apf informs rail, bus, waterborne and air passengers of their rights, monitors observance of the passenger rights embedded in the EU regulations and, if necessary, takes further steps to induce the companies concerned to fulfil their obligations.

apf organisation

The apf is a department of Schienen-Control and has no separate legal identity. In 2020, applicants' concerns (questions, arbitration requests, procedures) were handled directly by the director of the apf and up to eleven full-time/part-time employees.

apf funding

The apf is funded pro rata by contributions from the companies involved in the arbitration procedures and by the Federation. Companies participating in arbitration procedures are liable for costs; at present, these are fixed at 78 Euro per procedure in accordance with the PFAG Cost Contribution Ordinance 2015⁷. These contributions are calculated to cover 40 percent of the apf's costs⁸. The remaining costs are covered by the BMK using monies from the federal budget.

apf tasks

The apf's task is to help passengers obtain justice without having to go to court. The apf sees itself as an independent mediator between transport companies and their passengers. Passengers and clients of railway undertakings, railway station operators, integrated ticket organisations, airlines, waterborne transport companies and bus/coach companies (and to a lesser extent operators of bus stations, ports, terminals and civilian aerodromes, e.g. airport operators) can submit arbitration requests to the apf provided they have previously attempted to resolve the issue with the company concerned. The apf is in general not responsible for urban transport companies.

apf competences

Rail transport

With regard to rail transport, the apf helps all passengers and clients of railway undertakings and integrated ticket organisations obtain justice when using the railway. The apf can help with almost any issue involving a contract of carriage.

⁷ PFAG Cost Contribution Ordinance 2015, BGBl II 2015/150.

⁸ Pursuant to section 4 par. 3 Federal Passenger Agency Act.

The apf must notify the Schienen-Control Kommission of any unresolved disputes relating to rail transport (e.g. if it is alleged that the conditions for compensation contain unlawful provisions).

Bus, waterborne and air transport

With regard to bus, air and waterborne transport, the apf's activities are circumscribed by EU regulations, as a result of which its competences are more restricted than in the rail transport sector. The apf also stands up for the rights of persons with disabilities and reduced mobility.

Body responsible for cooperating with consumer protection authorities

In an amendment to the Consumer Authorities Cooperation Act (VBKG)⁹, the apf was specified as the body responsible for cooperating with consumer protection authorities in the areas of bus, air, and waterborne transport. Under this law, the national authorities responsible for consumer protection legislation may seek assistance from the corresponding authorities abroad. They can then take action against companies in the event of cross-border violations of consumer protection regulations.

This cooperation between authorities now also encompasses rail transport and the PRM Air Passenger Rights Regulation governing air transport¹⁰, and has done so since 17 January 2020.¹¹ The amendment to the Consumer Authorities Cooperation Act required for national implementation was not yet in force as of the editorial deadline for this publication.

Enforcing passenger rights

If no solution remedying the violation of the respective passenger rights regulation can be found during the arbitration procedure, the apf, in its capacity as the enforcement body, will notify the competent legal authority accordingly. The same applies if the company does not participate in the arbitration procedure.

apf arbitration procedures

The apf does not replace the respective company's complaints management. Before the apf can take action, passengers must attempt to reach a mutual agreement with the respective company themselves.

⁹ Consumer Authorities Cooperation Act – VBKG, BGBl I 2006/148, version published in BGBl I 2015/61.

¹⁰ Regulation (EC) 1107/2006 OJ L 2006/204, 1.

¹¹ Regulation (EU) 2017/2394, OJ L 2017/345, 1.

Competences of the rail transport regulatory authority

Validation of arbitration requests relating to rail transport

In the case of arbitration requests from rail passengers relating to non-existent or insufficient fare compensation for train delays and cancellations, the Schienen-Control Kommission can declare the apf's proposed solution binding and award the compensation to the passenger¹². This regulation is enforced in cases where no agreement can be reached with the railway undertaking. The Schienen-Control Kommission does not possess this competence in the other three transport sectors. Even in the rail transport sector, it extends only to fare compensation in the event of train delays and cancellations and not to any other claims.

Publication and review of conditions of carriage

Railway undertakings and integrated ticket organisations in the railway transport sector are obliged to present their conditions of carriage to Schienen-Control pursuant to section 22b Railway Act (EisbG). These conditions of carriage must be presented both when they are first published and after subsequent amendments. Pursuant to section 78b EisbG, the Schienen-Control Kommission has the right to examine whether the conditions of carriage published by the railway undertakings and integrated ticket organisations comply with the law; in the event of any violations, Schienen-Control may declare them void. The review encompasses all Austrian and European legislation (e.g. KSchG¹³, EisbBFG and the Rail Passenger Rights Regulation¹⁴).

apf annual assessment

From the spring onward, the reporting year 2020 was dominated by the COVID-19 pandemic and its effects on the transport sector. Travel restrictions caused a sharp decline in passenger numbers, and the transport companies had to limit the services offered. This led to cancellations, reversals and other aberrations. The number of arbitration requests submitted to the apf in 2020 remained very high. The apf staff continued to work intensively on enforcing passenger rights and found positive solutions for a large number of passengers throughout the year.

Arbitration requests and enquiries

In 2020, the apf received a total of 5,977 written arbitration requests and enquiries (2019: 6,395), 4,966 of which related to air transport (2019: 5,205), 903 to rail transport (2019: 1.047), 78 to bus transport (2019: 122) and 30 to waterborne transport (2019: 21). This means that the number of requests remained consistently high despite the restrictions on passenger travel. More than half (3,531) of the almost 6,000 requests and enquiries received were associated with the COVID-19 pandemic.

¹² Pursuant to section 78a par. 5 EisbG.

¹³ Consumer Protection Act – KSchG, BGBl 1979/140 (current version).

¹⁴ Regulation (EC) 1371/2007 OJL 2007/315, 14.

Arbitration procedures initiated

The arbitration procedures counted only include cases in which arbitration procedures were actually initiated. In all, 4,019 arbitration procedures were initiated in 2020 (2019: 4,622). Most of these (3,296) related to air transport (2019: 3,879), followed by rail transport with 694 (2019: 705) and bus transport with 29 (2019: 37) procedures. No procedures were initiated in the waterborne transport sector (2019: one procedure).

Compensation, reimbursements and penalty rebates

In 2020, the apf obtained a sum of 1,738,599 Euro in monetary compensation, reimbursements and penalty rebates for applicants (2019: 1,301,094 Euro). This sum was around one-third higher (approx. 34 percent) than in 2019. More than half of it (985,576 Euro) came from pandemic-related procedures.

At 1,647,594 Euro, the lion's share fell to the air transport sector (2019: 1,251,532 Euro); the apf also obtained 88,378 Euro in the rail transport sector (2019: 48,054 Euro) and 2,628 Euro in the bus transport sector (2019: 1,508 Euro).

Reaction time and duration of procedures

The average time taken for initial feedback to be sent to the applicant was less than four days (2019: four-and-a-half days). This means that the apf has succeeded in cutting down its reaction time still further compared to last year.

The average duration of an arbitration procedure was approximately 101 days (2019: 72 days). The longer duration was due in part to the complexity of some cases and to processing delays on the part of the transport companies due to the immense workload caused by the pandemic.

Rail transport

Arbitration requests and enquiries

In 2020, the apf received 903 arbitration requests relating to rail transport (2019: 1,047). The number of requests remained high despite – and also because of – the COVID-19 restrictions. 344 of the arbitration requests received in the transport sector pertained to travel problems caused by COVID-19.

81 percent of the applications rejected by the apf were repudiated on the grounds that the passenger had not yet lodged a claim with the company concerned (2019: 83 percent).

In 2020, 22 percent of all rail transport applicants resided in the Vienna (2019: 23 percent). 20 percent of applicants came from Lower Austria (2019: 18 percent) and ten percent from Upper Austria (2019: seven percent). 19 percent of the arbitration requests received came from the other federal provinces, while another 19 percent came from passengers residing abroad (2019: 22 percent).

Arbitration procedures

In all, 695 arbitration procedures were concluded in 2020 (2019: 704). 227 of these involved pandemic-related issues.

In 2020, 95 percent of all procedures in the rail transport sector reached a positive outcome to the satisfaction of both parties (2019: 85 percent). Despite intensive effort, no mutual agreement could be reached in some four percent of the procedures (2019: 11.5 percent), while just under one percent were substantively suspended (2019: 3.4 percent).

At the end of May 2015, transport companies participating in arbitration procedures were made liable for costs. In 2020, the railway undertakings involved were obliged to pay costs in 545 of the procedures concluded in the rail transport sector (2019: 527).

Company obligation to cooperate and complaints filed with district administrative authorities

In 2019, one Czech railway undertaking refused in part to cooperate in an arbitration procedure; administrative proceedings were initiated against the undertaking in the spring of 2020.

Grounds for procedures and distribution among companies

At 43.4 percent, the most frequent grounds for the initiation of arbitration procedures in 2020 were ticket reimbursements (2019: 33.5 percent).

Procedures relating to passenger fines and collection claims took second place at 34.2 percent (2019: 36.5 percent).

Procedures relating to compensation for delays (ticket costs) and the reimbursement of other consequential costs again came in third at 11.8 percent (2019: 19.2 percent).

97.1 percent of the procedures involved ÖBB-Personenverkehr (2019: 97.6 percent), while 1.7 percent involved other railway undertakings (including WESTbahn). The remainder involved ÖBB-Infrastruktur and the integrated ticket organisations.

Compensation, reimbursements and penalty rebates

The sum obtained by the apf from all the rail transport procedures concluded in 2020 amounted to 88,378 Euro (2019: 48,054 Euro).

Duration of procedures

In 2020, the apf was able to resolve 81 percent of rail transport procedures in less than two weeks (2019: 65 percent). Another 13 percent of procedures were concluded in less than one month (2019: 28 percent) and five percent in less than two months (2019: six percent). Only one percent of arbitration procedures took longer than two months (2019: same number); these mostly involved complex cases.

In 2020, the average duration of all (simple to highly complex) arbitration procedures in the rail transport sector was just under ten days (2019: around 14 days).

Bus transport

Arbitration requests and enquiries

In 2020, the apf received a total of 78 arbitration requests relating to bus transport (2019: 122). 22 of these related to COVID-19.

79 percent of those rejected were repudiated on the grounds of non-competence (2019: 87 percent), and 21 percent because the applicant had not contacted the bus company first (2019: 13 percent).

In 2020, more than one quarter (27 percent) of the applicants who filed bus transport requests lived in Vienna (2019: 25 percent), followed by 13 percent whose primary residences were located in Styria (2019: eight percent). 14 percent of applicants provided a residential address abroad (2019: twelve percent).

Arbitration procedures

In all, 29 arbitration procedures were concluded in 2020 (2019: 37). Eight of these related to COVID-19.

100 percent of the procedures in the bus transport sector reached a positive outcome to the satisfaction of both parties (2019: 93 percent).

The respective bus transport companies were held liable for costs in 23 of the procedures concluded in 2020 (2019: 27).

Company obligation to cooperate and complaints filed with district administrative authorities

In 2020, one German company refused in part to participate in an arbitration procedure. In several cases, the apf observed that when buses were cancelled due to COVID-19, the bus company merely offered vouchers as compensation and announced this on its website. This is against the law. After the apf threatened to initiate legal proceedings with the district administrative authorities, the company finally backed down and corrected its policy.

Grounds for procedures and distribution among companies

At 77 percent (more than three-quarters of cases), delays were the main reason why arbitration procedures were initiated in the bus transport sector in 2020 (2019: 25 percent). This sharp increase is probably due first and foremost to the travel restrictions imposed as a result of the COVID-19 pandemic. Ten percent of the procedures related to delays (2019: 42 percent).

93 percent of the procedures concluded in 2020 involved Flixbus (2019: 97 percent). The companies Eurobus and ÖBB-Personenverkehr each accounted for 3.5 of the procedures concluded by the apf.

Compensation and reimbursements

In 2020, the apf obtained 2,628 Euro in monetary compensation and reimbursements for bus passengers (2019: 1,508 Euro).

Duration of procedures

Almost half (48 percent) of the procedures initiated in 2020 were concluded within two weeks (2019: 57 percent). 43 percent of procedures were concluded in less than one month (2019: just under 36 percent). Only in nine percent of cases did the procedures initiated in 2020 take less than two months to resolve (2019: just under four percent). In 2019, just under four percent were concluded in less than two months and another four percent in more than two months.

The average duration of the bus transport procedures concluded in 2020 was somewhat over 15 days (2019: 16 days), i.e. approximately two weeks.

Waterborne transport

Arbitration requests, enquiries and arbitration procedures

In 2020, the apf received a total of 30 arbitration requests relating to waterborne transport (2019: 21). Two-thirds (21) of the requests and enquiries received by the apf related to the COVID-19 pandemic. No procedures were initiated (2019: one procedure). In 2020, as in previous years, all the requests rejected were repudiated on the grounds of non-competence

Air transport

Arbitration requests and enquiries

In all, 4,966 arbitration requests and enquiries relating to air transport were processed in 2020 (2019: 5,205). 42 percent of those rejected in 2020 were repudiated on the grounds of non-competence (2019: 61 percent) and 39 percent because the passenger had not yet lodged a claim with the airline concerned (2019: 13 percent). 19 percent of cases had to be rejected on other grounds (2019: 26 percent), such as failure to formally submit the request or the airline's insolvency.

At 71 percent, most of the arbitration requests submitted in 2020 were received from persons residing in Austria (2019: 63 percent). 13 percent of requests came from other EU countries, Iceland, Norway, and Switzerland (2019: 25 percent), while five percent came from non-member countries (2019: seven percent). Eleven percent of applicants provided no information regarding their country of residence (2019: five percent).

Arbitration procedures

A total of 3,869 procedures were concluded in the air transport sector in 2020 (2019: 3,397). 1,632 of these procedures related to issues caused by COVID-19.

The companies and passengers concerned were able to reach a mutual agreement in 71 percent of cases, thus bringing the procedures to a positive conclusion (2019: same). Despite intensive effort, no mutual agreement could be reached in four percent of the procedures (2019: five percent). The remaining procedures were substantively suspended. 20 percent were suspended due to extraordinary circumstances such as adverse weather conditions (2019: and five percent on other grounds such as delays of less than three hours (2019: six percent)).

The airlines were held liable for costs in 3,162 of the procedures concluded in 2020 (2019: 2,753).

Company obligation to cooperate and complaints filed with district administrative authorities

Since the apf is not only an arbitration board but also one of the bodies responsible for enforcing European passenger rights regulations, non-compliance with regulations has to be sanctioned with appropriate consequences. When the apf's attention is drawn to a violation of this kind, it brings administrative charges against the airline's authorised representatives (e.g. the managing director or board) through the competent district administrative authorities.

During the business year 2020, 75 procedures of this kind were initiated against airlines in connection with 57 concluded arbitration procedures. In 33 of the 75 cases, the airline had also failed to participate in the apf's arbitration procedure.

Grounds for procedures and distribution among companies

In 2020, around 70 percent of the procedures were initiated due to cancellations (2019: approx. 43 percent). Last year, airlines cancelled a large number of flights due to the severe long-term travel restrictions imposed as a result of the COVID-19 pandemic. Around one quarter (just under 27 percent) of the procedures related to delayed flights (2019: approximately 52 percent), while 2.7 percent related to denied boarding (2019: 4.7 percent).

One quarter (approx. 26 percent) of the procedures concluded in 2020 were initiated against Austrian Airlines, the biggest Austrian airline (2019: 37 percent). Around 13 percent of the procedures involved Laudamotion (2019: six percent), while approximately seven percent involved TAP Portugal (2019: four percent). Six percent each were accounted for by Eurowings (2019: 14 percent), LEVEL (2019: three percent) and Lufthansa (2019: four percent).

Compensation and reimbursements

In 2020, the apf again achieved a significant increase in the amount of compensation and reimbursements paid out. It obtained a sum of 1,647,594 Euro for flight passengers (2019: 1,251,532 Euro). 932,054 Euro of this compensation related to COVID-19 cases, i.e. approx. 57 percent of the total amount.

Duration of procedures

In 2020, one quarter (25 percent) of cases were resolved to the satisfaction of the applicant and the company concerned within two weeks (2019: 24 percent). A solution was found within one month in 17 percent of cases (2019: 24 percent) and within two months in twelve percent of cases (2019: eleven percent). 46 percent of cases

took longer than two months to resolve (2019: 41 percent). The increase in the duration of procedures was due above all to the need to perform time-consuming reviews of alleged extraordinary circumstances. Moreover, the COVID-19 crisis that dominated 2020 influenced airline processing times due to the numerous demands for refunds they received.

In 2020, the average duration of arbitration procedures in the air transport sector was around 118 days, i.e. around 17 weeks (2019: 85 days).

Focal areas of arbitration activity

Based on the large number of arbitration requests received, the apf is able to determine on a year-by-year basis where systematic, significant problems exist and where there is room for improvement. These issues are dealt with in depth while mediating between the passengers and companies, and are also addressed afterwards if necessary. Moreover, personal meetings are held with certain companies several times a year (virtually due to COVID-19) in order to discuss topics that are particularly relevant for a larger group of people.

Significant issues have arisen particularly in the rail, bus and air transport sectors. Due to the low number of cases during the period under review, it is not possible to draw any general conclusions about any structural problems that may exist in the waterborne transport sector.

In the rail transport sector, the apf's activities focused largely on issues such as fines/fare recovery, the effects of the COVID-19 pandemic, information about disruptions, online ticket purchasing and unclear fare conditions.

Important topics addressed during arbitration procedures in the air transport sector included cancellations due to the COVID-19 pandemic, claims for the reimbursement of flight tickets, and COVID-19 as an extraordinary circumstance.

Arbitration activities for persons with disabilities and reduced mobility

The apf is also responsible for handling arbitration requests from passengers with disabilities and reduced mobility (PRM). In the rail, bus and waterborne transport sectors, provisions relating to PRM are incorporated into the respective passenger rights regulations. The air transport sector is subject not only to the Air Passenger Rights Regulation¹⁵ but also to the PRM Air Passenger Rights Regulation.¹⁶

Until now, the apf has received only a few PRM arbitration requests relating to the four transport sectors.

¹⁵ Regulation (EC) 261/2004 OJ L 2004/46, 1.

¹⁶ Regulation (EC) 1107/2006 OJ L 2006/204, 1.

International cooperation

The passenger rights regulations applicable to all EU member states require regular intensive dialogue between the national enforcement bodies (NEB) in order to guarantee a uniform cross-border approach. Along with regular meetings, which usually take place at the European Commission in Brussels, other measures include participation in working groups, ongoing discussions at informal meetings, events jointly organised with stakeholders, and written communications relating to general questions on dealing with specific problems. In 2020, most of the meetings took place virtually due to the COVID-19 pandemic.

Passenger rights

Rail transport

Violations of the Rail Passenger Rights Regulation and the Railway Carriage and Passenger Rights Act

When handling arbitration requests, the apf occasionally finds that applicable provisions in the Rail Passenger Rights Regulation and/or the Railway Carriage and Passenger Rights Act (EisbBFG) have been violated. These cases are generally resolved by arbitration; however, the Schienen-Control Kommission had to be notified in a few cases.

The main issues in 2020 included refusals to issue refunds, violations relating to the issue and reduction of passenger fines, problems with compensation for holders of annual passes issued by integrated ticket organisations, and refusals to pay compensation for delays.

Review of conditions of carriage

As part of its mandate to scrutinise conditions of carriage and during the course of arbitration procedures initiated in response to arbitration requests, the apf addresses possible violations of the law on the companies' part. In several procedures initiated by the Schienen-Control Kommission, certain sections of conditions of carriage were ultimately declared invalid, while other procedures impelled the companies in question to amend their conditions of carriage.

Passenger rights audits

In 2020, the apf performed a second personal audit in the rail transport sector as part of its review of fare conditions and conditions of carriage; this time, the audit took place in Upper Austria. The apf met with the Upper Austrian integrated ticket organisation and the railway undertaking Stern & Hafferl. However, the apf subsequently also carried out inspections of trains, railway stations and stops operated by ÖBB-Personenverkehr, ÖBB-Infrastruktur and WESTbahn.

During the audit, the main topics of discussion between the apf and the companies concerned were fare inconsistencies and contradictions as well as ways of improving the information available at railway stations and on trains.

Fines in the fare conditions of Wiener Lokalbahnen

During the course of an arbitration procedure initiated against Wiener Lokalbahnen, the apf found that the regulations governing the issue of fines set out in the railway undertaking's fare conditions were in need of significant improvement; this finding was then communicated to the company. Wiener Lokalbahnen accordingly made improvements and added clarifications to the new version of its fare conditions.

Schienen-Control Kommission procedures

In 2020, the Schienen-Control Kommission again handled several regulatory procedures in the area of passenger rights.

Procedures relating to the general terms and conditions of the Österreichcard

For some time, the Schienen-Control Kommission had been handling a procedure relating to a number of clauses in the fare conditions of a railway undertaking. The subject of the procedure was the general terms and conditions of the Österreichcard annual network pass. The Schienen-Control Kommission was of the opinion that the general terms and conditions of the Österreichcard may violate provisions in federal law. Firstly, the railway undertaking failed to describe all the services provided by the Österreichcard in its general terms and conditions, and secondly, it claimed to be entitled to make unilateral amendments to the general terms and conditions of contracts that were already in force.

The railway undertaking agreed to provide consistent, complete information regarding all its services in its fare conditions and information media (e.g. its website and folders) in the future.

The undertaking expressly stated in its general terms and conditions that there would be no changes to its main performance obligations during the year.

The procedure was closed in March 2020 once all the changes had been implemented.

Procedures relating to price information in the online ticket shop

In June 2019, the Schienen-Control Kommission initiated a procedure relating to price information. This involved complaints about misleading and contradictory price information in the online ticket shop and app of a railway undertaking.

Following initial improvements, the undertaking agreed to others, e.g. to the online booking system. A complete change will be effected when the ticket shop is updated in 2021. The Schienen-Control Kommission therefore made concessions in some points but requested the undertaking to handle complaints in a customer-friendly manner until the changes were complete. With regard to some of the points addressed in the procedure, however, the Schienen-Control Kommission found that the time horizon communicated by the undertaking for the implementation of the measures was not sufficient.

The procedure was still pending as of the editorial deadline for this publication.

Procedures relating to punctuality

The Schienen-Control Kommission initiated two procedures (June 2016 and December 2019) relating to the punctuality of a railway undertaking in order to determine whether the degree of punctuality submitted by the undertaking complied with statutory regulations.

During the first procedure, Schienen-Control Kommission declared the punctuality figure of 90 percent void (decision of September 2016). The railway undertaking then appealed to the Federal Administrative Court (BVwG). The BVwG dismissed the appeal (ruling passed in March 2020).

The railway undertaking then raised the degree of punctuality specified in its conditions for compensation (November 2016) by an insignificant amount.

During the second procedure (initiated in December 2019), the Schienen-Control Kommission again took action against the punctuality figure of 90.01 percent now presented by the undertaking. This degree of punctuality was also declared void, and the Schienen-Control Kommission set the undertaking a higher punctuality figure of at least 92 percent. The railway undertaking then submitted another appeal to the BVwG.

In another decision (September 2020), the Schienen-Control Kommission declared the limited validity of the vouchers issued to compensate holders of annual passes for non-compliance with the degree of punctuality (one year from the date of issue) void.

Air transport

Relevant rulings during 2020

As the Air Passenger Rights Regulation has still not been revised, the European Court of Justice (ECJ) again had to deal with several issues relating to the interpretation of passenger rights legislation in 2020. Rulings relevant to the apf's activities include those that address the following questions: can the compensation be paid twice if another irregularity occurs in connection with an alternative flight? In the case of single bookings, is the passenger entitled to compensation if the feeder flight is changed but the final destination is reached at the scheduled time on board the connecting flight originally booked? Can disruptive behaviour by a passenger constitute an extraordinary circumstance?

Railway punctuality

At 96.8 percent, the punctuality of all local passenger trains operated by ÖBB-Personenverkehr in 2020 was higher than the previous year's figure of 95.2 percent after taking all unscheduled train cancellations into account. At 97.5 percent, the highest average level of punctuality was achieved by Carinthia, followed by Vorarlberg at 97.2 percent and Styria at 97.4 percent. The months with the highest number of punctual trains in Austria (including train cancellations) were April and May at more than 98 percent and March and June 2020 at more than 97 percent.

The punctuality figures of most competing providers were also very high. With figures over 95 percent, Stern & Hafferl (StH) operations on the Linzer Lokalbahn (LILo), Lokalbahn Lambach–Vorchorf-Eggenberg (LVE), the

Montafonerbahn (MBS), the Graz-Köflacher Bahn (GKB), the Steiermarkbahn (StB), the Salzburger Lokalbahn (SLB) and the Neusiedler Seebahn (NSB) were consistently punctual throughout 2020.

WESTbahn provides long-distance transport; the statutory minimum punctuality figure of 95 percent governing compensation for delays on local railways therefore does not apply. The level of punctuality set by the Schienen - Control Kommission for WESTbahn is currently 92 percent (a procedure relating to this figure is currently pending at the Federal Administrative Court). All other railway undertakings are subject to the same minimum punctuality figure of 95 percent as the local passenger trains operated by ÖBB-Personenverkehr.

Holders of annual passes (issued by integrated ticket organisations) are entitled to compensation for delays if punctuality drops below the statutory figure of 95 percent for regional transport in at least one month. According to ÖBB-Infrastruktur, a train is said to be punctual if it arrives no more than 5 minutes 29 seconds late. All of the approximately 19 million regional train arrivals at every station were included in the figures calculated by ÖBB-Personenverkehr for 2020. Unscheduled train cancellations with no replacement services were also taken into account. In 2020, the ÖBB-Infrastruktur network was divided into 112 sections carrying passenger transport for the railway undertaking ÖBB-Personenverkehr.